

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF ARKANSAS
JONESBORO DISTRICT

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
JUL 01 1998
JAMES W. MCCORMACK, CLERK
By: *Maitha S. Jones*
PLAINTIFFS
DEP. CLERK

MIRANDA MALDONADO, a Minor, by her
Parents and Next Friends, FERMIN
MALDONADO and DIANA MALDONADO;
FERMIN MALDONADO, Individually, and
DIANA MALDONADO, Individually,

vs.

N0.J-C- 98- 297

FAMILY MEDICINE ASSOCIATES, P.A. and
KAREN HESTER, M.D.

DEFENDANT

This case assigned to District Judge *Howard*
and to Magistrate Judge *Jones*

COMPLAINT AT LAW

COUNT I - MIRANDA MALDONADO

Plaintiff, MIRANDA MALDONADO, a Minor, by her Parents and Next Friends, FERMIN MALDONADO and DIANA MALDONADO, by her attorneys, HENRY, HALSEY & THYER, complaining of the Defendants, FAMILY MEDICINE ASSOCIATES, P.A. (Hereafter "FAMILY") and KAREN HESTER, M.D. (Hereafter "HESTER"), and each of them, states:

1. On July 3, 1996, the Plaintiff and the Defendants were residents of Blytheville, Chickasawba District of Mississippi County, Arkansas and the incident which gives rise to this cause of action occurred in Blytheville, Arkansas.
2. Plaintiffs currently are residents and citizens of the State of Texas.
3. On July 3, 1996, and at all times mentioned herein, Defendant, FAMILY, was a health care corporation providing services to patients.

4. On July 3, 1996, and at all times mentioned herein, Defendant, HESTER, was a physician duly licensed to practice medicine in the State of Arkansas and was engaged in the practice of medicine.

5. On July 3, 1996, and at all times mentioned herein, Defendant, HESTER, was a duly authorized agent and employee of Defendant, FAMILY, and was acting within the scope of her agency and employment.

6. On July 3, 1996, Minor Plaintiff, MIRANDA MALDONADO, presented at the office of the Defendants complaining of nausea, vomiting and abdominal pain and was treated by Defendant, HESTER. Defendant, HESTER, performed an exam and ordered a laboratory test known as a CBC which revealed an elevated white blood cell count. Defendant, HESTER, diagnosed gastroenteritis and prescribed two medications, phenergan and pediazole. On July 3, 1996, Defendant, HESTER, failed to perform a rectal exam on Minor Plaintiff, MIRANDA MALDONADO, failed to consult with a surgeon, failed to diagnose and treat appendicitis, failed to order an abdominal ultrasound, failed to recognize the significance of an elevated white count, failed to perform serial abdominal exams and prescribed inappropriate medications.

7. Subsequent to July 3, 1996, Minor Plaintiff, MIRANDA MALDONADO, continued to have abdominal pain and other symptoms to such an extent that she consulted with other physicians who determined that she had appendicitis. As a result of the Defendant's failure to properly diagnose and treat appendicitis, the Minor Plaintiff, MIRANDA MALDONADO, was taken to surgery where she was found to have a ruptured appendix, a pelvic abscess and severe inflammation of the terminal ileum, the right Fallopian tube and the right ovary requiring a resection of the terminal ileum, cecum and omentum. The aforementioned conditions would not have been

present if Defendant had properly diagnosed and treated the appendicitis, all of which was a violation of the standard of care and skill expected and required by physicians licensed and practicing in the State of Arkansas.

8. The Defendant's negligence in failing to properly diagnose and treat appendicitis was a cause of additional and extensive hospitalizations which resulted in expenses of approximately \$40,000.00.

9. As a result of Defendant's negligence, the Minor Plaintiff, MIRANDA MALDONADO, sustained medical care and pain and suffering in the past. At the current time, the Minor Plaintiff, MIRANDA MALDONADO, has abdominal problems which may continue into the future, including bowel problems and possible infertility, and should recover from the Defendants damages in an amount more than that required for federal court jurisdiction in diversity cases.

10. - Plaintiff requests trial by jury.

WHEREFORE, Plaintiff, MIRANDA MALDONADO, a Minor, by her Parents and Next Friends, FERMIN MALDONADO and DIANA MALDONADO, prays judgment against Defendants, FAMILY MEDICINE ASSOCIATES, P.A. and KAREN HESTER, M.D., and each of them, in an amount more than required for federal court jurisdiction in diversity cases as actual compensatory damages for her personal injuries, pain and suffering, and her costs and all other relief to which she may be entitled.

COUNT II - FERMIN AND DIANA MALDONADO

Plaintiffs, FERMIN MALDONADO, Individually, and DIANA MALDONADO, Individually, by their attorneys, by their attorneys, HENRY, HALSEY & THYER complaining of

the Defendants, FAMILY MEDICINE ASSOCIATES, P.A. (Hereafter "FAMILY") and KAREN HESTER, M.D. (Hereafter "HESTER"), and each of them, states:

1. On July 3, 1996, the Plaintiffs and the Defendants were residents of Blytheville, Chickasawba District of Mississippi County, Arkansas and the incident which gives rise to this cause of action occurred in Blytheville, Arkansas.

2. Plaintiffs, FERMIN MALDONADO and DIANA MALDONADO, are the parents of Minor Plaintiff, MIRANDA MALDONADO, and currently are residents and citizens of the State of Texas.

3. On July 3, 1996, and at all times mentioned herein, Defendant, FAMILY, was a health care corporation providing services to patients.

4. On July 3, 1996, and at all times mentioned herein, Defendant, HESTER, was a physician duly licensed to practice medicine in the State of Arkansas and was engaged in the practice of medicine.

5. On July 3, 1996, and at all times mentioned herein, Defendant, HESTER, was a duly authorized agent and employee of Defendant, FAMILY, and was acting within the scope of her agency and employment.

6. On July 3, 1996, Minor Plaintiff, MIRANDA MALDONADO, presented at the office of the Defendants complaining nausea, vomiting and abdominal pain and was treated by Defendant, HESTER. Defendant, HESTER, performed an exam and ordered a laboratory test known as a CBC which revealed an elevated white blood cell count. Defendant, HESTER, diagnosed gastroenteritis and prescribed two medications, phenergan and pediazole. On July 3, 1996, Defendant, HESTER, failed to perform a rectal exam on Minor Plaintiff, MIRANDA MALDONADO, failed to consult

with a surgeon, failed to diagnose and treat appendicitis, failed to order an abdominal ultrasound, failed to recognize the significance of an elevated white count, failed to perform serial abdominal exams and prescribed inappropriate medications.

7. After July 3, 1996, Minor Plaintiff, MIRANDA MALDONADO, continued to have abdominal pain and other symptoms to such an extent that she consulted with other physicians who determined that she had appendicitis. As a result of the Defendant's failure to properly diagnose and treat appendicitis, the Minor Plaintiff, MIRANDA MALDONADO, was taken to surgery where she was noted to have a ruptured appendix, a pelvic abscess and severe inflammation of the terminal ileum, the right tube and the right ovary requiring a resection of the terminal ileum, cecum and omentum. The aforementioned conditions would not have been present if Defendant had properly diagnosed and treated the appendicitis, all of which was a violation of the standard of care and skill expected and required by physicians licensed and practicing in the State of Arkansas.


8. The Defendant's negligence in failing to properly diagnose and treat appendicitis was a cause of additional and extensive hospitalizations which resulted in expenses of approximately \$40,000.00.

9. The Plaintiffs, FERMIN MALDONADO and DIANA MALDONADO, as the parents of the Minor Plaintiff, MIRANDA MALDONADO, became financially obligated for various medical care and expenses for MIRANDA MALDONADO and incurred indebtedness for travel and related expenses. The Minor Plaintiff, MIRANDA MALDONADO, has abdominal problems at the present time which may continue into the future thus requiring the Plaintiffs to incur further medical expenses and they should recover from the Defendants damages in an amount more than that required for federal court jurisdiction in diversity cases.

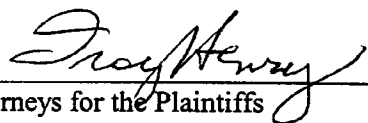
10. Plaintiffs request trial by jury.

WHEREFORE, Plaintiffs, FERMIN MALDONADO and DIANA MALDONADO, pray judgment against Defendants, FAMILY MEDICINE ASSOCIATES, P.A. and KAREN HESTER, M.D., and each of them, in an amount more than required for federal court jurisdiction in diversity cases as actual compensatory damages for the medical and related expenses incurred on behalf of their daughter, and their costs and all other relief to which they may be entitled.

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